

Senate Bill No. 745

CHAPTER 76

An act to amend Sections 66418.2 and 66426 of the Government Code, relating to land use.

[Approved by Governor July 21, 2003. Filed with
Secretary of State July 21, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 745, Ashburn. Environmental subdivision.

(1) Under the Subdivision Map Act, a local agency may, prior to January 1, 2005, approve or approve conditionally an environmental subdivision, which is defined as a subdivision of land for biotic and wildlife purposes, if the local agency finds that specified conditions have been met.

This bill would extend indefinitely the authority of a legislative body to approve or conditionally approve an environmental subdivision and would revise the conditions that are required to be met prior to the local agency approving or conditionally approving the environmental subdivision.

(2) The Subdivision Map Act, until January 1, 2003, excepts, among other things, land being subdivided solely for the creation of an environmental subdivision from the requirement of a tentative and final map when 5 or more parcels are created.

This bill would delete the January 1, 2003, termination date from the exception.

The people of the State of California do enact as follows:

SECTION 1. Section 66418.2 of the Government Code is amended to read:

66418.2. (a) "Environmental subdivision" means a subdivision of land pursuant to this division for biotic and wildlife purposes that meets all of the conditions specified in subdivision (b).

(b) Prior to approving or conditionally approving an environmental subdivision, the local agency shall find each of the following:

(1) That factual biotic or wildlife data, or both, are available to the local agency to support the approval of the subdivision, prior to approving or conditionally approving the environmental subdivision.

(2) That provisions have been made for the perpetual maintenance of the property as a biotic or wildlife habitat, or both, in accordance with

the conditions specified by any local, state, or federal agency requiring mitigation.

(3) That an easement will be recorded in the county in which the land is located to ensure compliance with the conditions specified by any local, state, or federal agency requiring the mitigation. The easement shall contain a covenant with a county, city, or nonprofit organization running with the land in perpetuity, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument. Where the biotic or wildlife habitat, or both, are compatible, the local agency shall consider requiring the easement to contain a requirement for the joint management and maintenance of the resulting parcels. This reservation shall not be inconsistent with the purposes of this section and shall not be incompatible with maintaining and preserving the biotic or wildlife character, or both, of the land.

(4) The real property is at least 20 acres in size, or if it is less than 20 acres in size, the following conditions are met:

(A) The land is contiguous to other land that would also qualify as an environmental subdivision.

(B) The other land is subject to a recorded perpetual easement that restricts its use to a biotic or wildlife habitat, or both.

(C) The total combined acreage of the lands would be 20 acres or more.

(D) Where the biotic or wildlife habitat, or both, are compatible, the land and the other land will be jointly managed and maintained.

(c) Notwithstanding subdivision (a) of Section 66411.1, any improvement, dedication, or design required by the local agency as a condition of approval of an environmental subdivision shall be solely for the purposes of ensuring compliance with the conditions required by the local, state, or federal agency requiring the mitigation.

(d) After recordation of an environmental subdivision, a subdivider may only abandon an environmental subdivision by reversion to acreage pursuant to Chapter 6 (commencing with Section 66499.11) if the local agency finds that all of the following conditions exist:

(1) None of the parcels created by the environmental subdivision has been sold or exchanged.

(2) None of the parcels is being used, set aside, or required for mitigation purposes pursuant to this section.

(3) Upon abandonment and reversion to acreage pursuant to this subdivision, the easement for biotic and wildlife purposes is extinguished.



(e) If the environmental subdivision is abandoned and reverts to acreage pursuant to subdivision (d), all local, state, and federal requirements shall apply.

(f) This section shall apply only upon the written request of the landowner at the time the land is divided. This section is not intended to limit or preclude subdivision by other lawful means for the mitigation of impacts to the environment, or of the land devoted to these purposes, or to require the division of land for these purposes.

SEC. 2. Section 66426 of the Government Code is amended to read:

66426. A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any one of the following occurs:

(a) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required by the legislative body.

(b) Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway.

(c) The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths.

(d) Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.

(e) The land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2.

(f) A parcel map shall be required for those subdivisions described in subdivisions (a), (b), (c), (d), and (e).

